

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In re: BRIDGESTONE/FIRESTONE, INC.,) Master File No. IP 00-9373-C-B/S
ATX, ATX II and WILDERNESS TIRES) MDL NO. 1373
PRODUCTS LIABILITY LITIGATION)
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THIS DOCUMENT RELATES TO ALL)
ACTIONS)

ENTRY ON MOTION TO COMPEL

This cause is before the magistrate judge on plaintiffs' Emergency Motion to Compel the Deposition of Hiroyuki Kita, or, in the Alternative, to Strike the Affidavit of Hiroyuki Kita. The motion has been fully briefed on an expedited basis, and the magistrate judge, being duly advised, **GRANTS IN PART** the motion for the reasons set forth below.

Mr. Kita, a resident of Japan, is a manager of defendant Bridgestone Corporation's ("Bridgestone") Corporate Legal Department. In support of its motion to dismiss for lack of personal jurisdiction, Bridgestone attached the affidavit of Mr. Kita. The plaintiffs now seek to depose Mr. Kita regarding the assertions made in his affidavit and other topics relevant to the issue of this court's personal jurisdiction over Bridgestone. The plaintiffs further seek to take Mr. Kita's deposition in Indianapolis rather than in Japan.

In response to the plaintiffs' motion to compel, Bridgestone objects to the plaintiffs' characterization of their need to depose Mr. Kita as an "emergency," given the fact that the plaintiffs did not notice Mr. Kita's deposition until April 16, 2001, more than two months after Mr. Kita's affidavit was filed with Bridgestone's motion to dismiss. While the magistrate judge agrees that the plaintiffs' use of the term "emergency" is a bit hyperbolic, the magistrate judge does not find the plaintiffs' deposition notice to Mr. Kita to be untimely, especially in light of the

fact that the plaintiffs had earlier noticed a Rule 30(b)(6) deposition, which also was objected to by Bridgestone.

Bridgestone next argues that it is not necessary for the plaintiffs to depose Mr. Kita because the plaintiffs can obtain all necessary information through other means--specifically, through Bridgestone's responses to plaintiffs' written discovery requests and through Mr. Kita's supplemental affidavit filed in another federal district court.¹ However, the magistrate judge determines that it is reasonable for the plaintiffs to depose Mr. Kita, in light of the fact that Bridgestone relies upon his affidavit to support its allegation that it is not subject to this court's jurisdiction. If Bridgestone wishes to avoid having Mr. Kita deposed, then it may withdraw Mr. Kita's affidavit from this court's consideration.

Finally, Bridgestone argues that Mr. Kita's deposition "should, as a matter of international law and comity, take place in Japan subject to the provisions of the Japan-U.S. Consular Convention." Bridgestone's Brief at 5. Bridgestone neglects to set forth any relevant provisions of the Japan-U.S. Consular Convention or to inform the court how it believes those provisions would operate in this case. Thus, the magistrate judge determines that Mr. Kita's deposition should take place in Japan at a place convenient to Mr. Kita, or, alternatively, by international video teleconference. The deposition shall be scheduled as soon as practicable, and, in any event, within **30 days of the date of this Entry**, and the plaintiffs' supplemental response

¹Bridgestone suggests that the magistrate judge's order granting in part and denying in part Bridgestone's motion for protective order regarding jurisdictional discovery prohibits the plaintiffs from conducting any discovery other than that specifically set out in the order. However, that order did not address whether any depositions were appropriate, because Bridgestone's motion for protective order did not raise the issue, but rather mentioned only plaintiffs' written discovery requests.

to Bridgestone's motion to dismiss shall be filed **within 14 days of the date Mr. Kita's deposition is completed.**

ENTERED this _____ day of May 2001.

V. Sue Shields
United States Magistrate Judge
Southern District of Indiana

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